



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JUN 27 2017

SENT VIA E-MAIL

To: Mark Bennett
mbennett@pioneermetal.com

REPLY TO THE ATTENTION OF:

Re: Expedited Settlement Agreement and Final Orders

Pioneer Metal Finishing
24600 Industrial Highway
Warren, Michigan
MID985632975

Pioneer Metal Finishing
13251 Stephens Road
Warren, Michigan
MIR000044644

Docket No: RCRA-05-2017-0018

Docket No: _____

Dear Mr. Bennett:

Attached, please find two signed and fully-executed Expedited Settlement Agreement and Final Orders (ESA) in resolution of the above cases. The originals were filed on June 27, 2017, with the Regional Hearing Clerk (RHC).

In the matter of Docket No: RCRA-05-2017-0018 associated with EPA ID MID9856329475, please pay the civil penalty in the amount of \$5,000 in the manner prescribed in paragraphs 12-15 of the ESA.

In the matter of Docket No: _____ associated with EPA ID MIR000044644, please pay the civil penalty in the amount of \$11,000 in the manner prescribed in paragraphs 12-15 of the ESA.

Reference all checks with the Respondent's site name and respective docket numbers. Your payment is due within 30 calendar days of the effective date of the ESAs.

A Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings is also attached for your information.

Thank you for your cooperation in resolving these matters. If you have any questions or concerns regarding these matters, please contact Brenda Whitney, of my staff, at 312-353-4796 or at whitney.brenda@epa.gov.

Sincerely,

Gary J. Victorine, Chief
RCRA Branch

Attachments

cc: Carrie Hardigan, MDEQ (hardigan@michigan.gov) (w/ESA)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Pioneer Metal Finishing
Warren, Michigan
24600 Industrial Highway
EPA ID No. MID 985 632 975

Respondent.

Docket No. RCRA-05-2017-0018

**EXPEDITED SETTLEMENT
AGREEMENT AND FINAL
ORDER**



EXPEDITED SETTLEMENT AGREEMENT

1. Pioneer Metal Finishing ("Respondent") is a corporation doing business in the State of Michigan and is the owner or operator of the facility located at 24600 Industrial Highway in Warren, Michigan (the "Facility").
2. The U.S. Environmental Protection Agency ("EPA") inspected Respondent's Facility on November 20, 2014 (the "Inspection"), to determine compliance with the Resource Conservation and Recovery Act ("RCRA") 42 U.S.C. §§ 6901 *et seq.* and its implementing regulations, and the EPA approved and authorized State of Michigan hazardous waste management program as set forth in the Michigan Administrative Code, Rule Range R 299.9101 – 299.11007.
3. Subsequent to the EPA Inspection, EPA sent an Information Request to Respondent on April 27, 2015, to which Respondent responded on February 3, 2016.
4. Upon review of the information obtained during the Inspection and submitted in response to the Information Request, EPA issued a Notice of Violation ("NOV") to Respondent on July 11, 2016, that alleged the following violations of RCRA:
 - a. Storage of Hazardous Waste Exceeding Small Quantity Generator Limits – Pursuant to Mich. Admin. Code r. 299.9306(4)(a) [see also 40 C.F.R. § 262.34(d)(1)], a small quantity generator of hazardous waste may accumulate hazardous waste on-site for 180 days or less without an operating license or without being an existing facility provided that the quantity of waste accumulated on-site never exceeds 6,000 kilograms. According to manifest 005476956FLE, dated June 10, 2014, a total of 3,645 gallons of hazardous paint-related waste were shipped off-site from the Facility. An estimation of the density of the wastes at 8.0 pounds per gallon yields a total weight of approximately 29,160 pounds (13,255 kilograms) of hazardous waste, exceeding the 6,000-kilogram storage limit.

- b. Emergency Posting by Phone – Pursuant to Mich. Admin. Code r. 299.9306(4)(g) [see also 40 C.F.R. § 262.34(d)(5)(ii)], a small quantity generator must post the following information near a telephone: the name and telephone number of the emergency coordinator for the site; the location of fire extinguishers, spill control material, and fire alarms; and the telephone number of the fire department unless the facility has a direct alarm.

At the time of the Inspection, the Facility did not have a posting with the above-listed information located near a telephone.

- c. Hazardous Waste Determination Recordkeeping – Pursuant to Mich. Admin. Code r. 299.9302(1) [see also 40 C.F.R. § 262.11], a generator must determine whether its waste is hazardous. Records of this determination must be kept for at least three years from the date that the waste was last sent for treatment, storage, or disposal, pursuant to Mich. Admin. Code r. 299.9307(1) [see also 40 C.F.R. § 262.40(c)].

At the time of the Inspection, records of test results, waste analyses, or other supporting documentation for its waste determinations for overspray filters or solvent-contaminated rags were not present at the Facility.

- 5. Respondent submitted a response to the NOV on September 9, 2016, describing actions that it had undertaken to correct the alleged violations.
- 6. EPA subsequently conducted a Follow-up Inspection at the Facility on November 10, 2016, to confirm that the violations alleged in the NOV had been corrected, and informed Respondent of the following two additional potential violations of RCRA that were identified during the Follow-up Inspection:

- a. Hazardous Waste Marking – Pursuant to Mich. Admin. Code r. 299.9306(4)(c) [see also 40 C.F.R. § 262.34(d)(3)], Respondent was required to ensure that the date upon which each period of accumulation begins and the hazardous waste number of the waste are clearly marked and visible for inspection on each container.

At the time of the Follow-up Inspection, one container marked as “Hazardous Waste” in the 180-day accumulation area was not marked with applicable hazardous waste numbers. Also, in a covered area behind the building, one 55-gallon drum marked as “Hazardous Waste” was not marked with a start date of accumulation or with hazardous waste numbers.

- b. Emergency Posting by Phone (2nd issue) – Pursuant to Mich. Admin. Code r. 299.9306(4)(g) [see also 40 C.F.R. § 262.34(d)(5)(ii)(B)], Respondent was required to post the location of spill control material next to the telephone with other emergency information.

At the time of the Follow-up Inspection, the location of spill control material was not included in the emergency posting on the wall.

7. Subsequent to their receipt of this Expedited Settlement Agreement ("Agreement") for their signature, Respondent submitted information to EPA describing actions it had undertaken to correct the two additional potential violations listed in paragraph 6, above.
8. The parties agree that settlement of all five alleged violations for a total civil penalty of five thousand dollars (\$5,000), without the filing of a complaint or the adjudication of any issue of fact or law, is in their interest and in the public interest.
9. EPA is authorized to enter into this Agreement pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
10. By signing this Agreement, Respondent: (a) admits that it is subject to Michigan's hazardous waste rules published in the Michigan Administrative Code; (b) admits that EPA has jurisdiction over Respondent, and the violations alleged in the NOV and this Agreement; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of the civil penalty specified herein; and (e) waives any right to contest the allegations contained herein.
11. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the alleged violations have been corrected and that Respondent is complying with the applicable sections of RCRA and its implementing regulations.
12. Within thirty (30) days after the effective date of this Agreement, Respondent agrees to pay a civil penalty of five thousand dollars (\$5,000) for the violations of RCRA alleged in the NOV and in this Agreement, by sending a cashier's or certified check, payable to "Treasurer, United States of America" to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must state the case title ("In the Matter of: Pioneer Metal Finishing") and the docket number of this Agreement.

Respondent may also pay the civil penalty online at:

www.pay.gov

Use the Search Public Forms option and enter "sfo 1.1" in the search field, open the form and then complete the required fields.

Within ten (10) calendar days after payment, Respondent agrees to send a notice of payment which includes Respondent's name, complete address, and the case docket number (along

with a photocopy of the check or a statement of affirmation regarding an electronic funds transfer) to EPA at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (E-19J)
Chicago, IL 60604

Brenda Whitney
Environmental Engineer
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (LR-17J)
Chicago, IL 60604

Terence Stanuch
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604

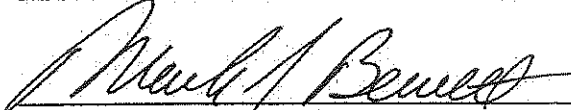
13. Respondent acknowledges that the civil penalty assessed herein is not deductible for federal tax purposes.
14. If Respondent does not timely pay the civil penalty as agreed to herein, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in any such collection action.
15. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount of the civil penalty that is overdue under this Agreement. Interest will accrue on any amount overdue at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a fifteen dollar (\$15) handling charge each month that any portion of the penalty is more than thirty (30) days past due. In addition, Respondent must pay a six percent (6%) per year penalty on any principal amount ninety (90) days past due.
16. Respondent's payment of the civil penalty shall constitute a full settlement of the violations alleged in the NOV and in this Agreement, and resolves Respondent's liability for federal civil penalties for these alleged violations.
17. EPA reserves all of its rights to take any enforcement action for any other past, present or future violations of RCRA by Respondent, or for any other violations of any federal statute or regulation, or this Agreement.
18. Upon signing and returning this Agreement to EPA, Respondent waives any and all remedies, claims for relief, opportunities for hearing, and any otherwise available rights to

judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Agreement, including but not limited to the opportunity for a hearing or appeal pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), 40 C.F.R. § 22.15(c), and Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Respondent also consents to EPA's approval of this Agreement without further notice.

19. EPA is authorized to enter into this Agreement under the authority vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928, and by 40 C.F.R. § 22.13(b). This Agreement is a "final order" under 40 C.F.R. § 22.31.
20. Each party shall bear its own costs and fees associated with resolving this matter.
21. Consistent with the "Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules," dated March 27, 2015, the parties consent to service of this Agreement by e-mail at the following valid e-mail addresses: whitney.brenda@epa.gov and stanuch.terry@epa.gov (for EPA) and mbennett@pioneermetal.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.
22. This Agreement is binding on the parties signing below and any of Respondent's successors or assigns and, in accordance with 40 C.F.R. 22.31(b), is effective upon filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5.


IT IS SO AGREED:

APPROVED BY PIONEER METAL FINISHING, WARREN, MI:


Mark Bennett, Vice President

6/15/2017
Date

APPROVED BY EPA:


Ignacio L. Arrázola
Acting Director
Land and Chemicals Division
U.S. Environmental Protection Agency
Region 5

6/23/17
Date

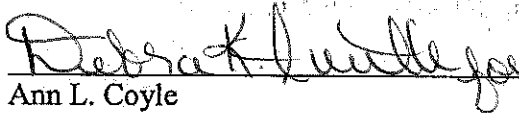
In the Matter of:
Pioneer Metal Finishing, Industrial Highway, Warren, MI
Docket Number: RCRA-05-2017-0018

In the Matter of:
Pioneer Metal Finishing, Industrial Highway, Warren, MI
Docket Number: RCRA-05-2017-0018

FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED:


Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

6/27/17
Date

In the matter of: **Pioneer Metal Finishing, Industrial Highway, Warren MI**
EPA ID Number: MID985632975
Docket Number: **RCRA-05-2017-0018**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement and Final Order**, Docket Number **RCRA-05-2017-0018**, which was filed on June 27, 2017, in the following manner to the addressees:

Copy by e-mail to

Respondent:

(Authorized in CAFO)

Mark Bennett

mbennett@pioneermetal.com

Copy by e-mail to

Attorney for Complainant:

Terry Stanuch

stanuch.terry@epa.gov

Copy by e-mail to

Case Assignee:

Brenda Whitney

whitney.brenda@epa.gov

Copy by e-mail to

Regional Judicial Officer:

Ann Coyle

coyle.ann@epa.gov

Dated:

June 27, 2017 

LaDawn Whitehead

Regional Hearing Clerk

U.S. Environmental Protection Agency, Region 5

